

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

ROBERT L. TAYLOR,

Defendant.

CASE NO. 8:10CR266

TENTATIVE FINDINGS

The Court has received the Revised Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto (Filing No. 41). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to several paragraphs in the PSR.¹ The objections have been carefully considered and are denied for the reasons stated in the Addendum to the PSR.

The Defendant's motion for downward departure (Filing No. 42) is denied. Only the government may move for a downward departure relating to substantial assistance. Eighth Circuit case law states that the Fair Sentencing Act has not been made retroactive. *United States v. Williams*, 2011 WL 167073, at *1 (8th Cir. Jan. 20, 2011).

IT IS ORDERED:

1. The Defendant's objections (Filing No. 41) to the PSR are denied;
2. The Defendant's motion for downward departure (Filing No. 42) is denied;

¹The Court notes the objection to ¶ 78 is actually to ¶ 80.

3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 2 of this Order, my tentative findings may become final; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 7th day of February, 2011.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge